

ASSEMBLY BILL

No. 1605

Introduced by Assembly Member Bates

February 21, 2003

An act to amend Section 1088.8 of the Unemployment Insurance Code, relating to unemployment compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1605, as introduced, Bates. Employees and service-providers: reporting requirements.

Existing law requires each employer and service-recipient to file with the Director of Employment Development a report of contributions and report of wages paid to his or her workers, or, for service-providers, to provide specified information regarding payments to the service-providers. This information is collected for purposes of child support collection. Service-providers are defined as persons who are not employees under state law and who receive payments or execute a contract for services performed for a service-recipient.

This bill would provide that a service-provider does not include a person who sells consumer products on a buy-sell or deposit-commission basis, or similar basis, or a person who sells consumer products in the home or a place other than a permanent retail establishment.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1088.8 of the Unemployment Insurance Code is amended to read:

1088.8. (a) Effective January 1, 2001, any service-recipient, as defined in subdivision (b), who makes or is required to make a return to the Internal Revenue Service, in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code (relating to payments made to a service-provider as compensation for services) shall file with the department information as required under subdivision (c).

(b) For purposes of this section:

(1) "Service-recipient" means any individual, person, corporation, association, or partnership, or agent thereof, doing business in this state, deriving trade or business income from sources within this state, or in any manner in the course of a trade or business subject to the laws of this state. "Service-recipient" also includes the State of California or any political subdivision thereof, including the Regents of the University of California, any charter city, or any political body not a subdivision or agency of the state, and any person, employee, department, or agent thereof.

(2) "Service-provider" means an individual who is not an employee of the service-recipient for California purposes and who received compensation or executes a contract for services performed for that service-recipient within or without the state. "Service-provider" does not include any person described in Section 3508(b)(2)(A)(i) or Section 3508(b)(2)(A)(ii) of the Internal Revenue Code.

(c) Each service-recipient shall report all of the following information to the department, within 20 days of the earlier of first making payments that in the aggregate equal or exceed six hundred dollars (\$600) in any year to a service-provider, or entering into a contract or contracts with a service-provider providing for payments that in the aggregate equal or exceed six hundred dollars (\$600) in any year:

(1) The full name, address, and social security number of the service-provider.

(2) The service-recipient's name, business name, address, and telephone number.

1 (3) The service-recipient's federal employer identification
2 number, California state employer account number, social security
3 number, or other identifying number as required by the
4 Employment Development Department in consultation with the
5 Franchise Tax Board.

6 (4) The date the contract is executed, or if no contract, the date
7 payments in the aggregate first equal or exceed six hundred dollars
8 (\$600).

9 (5) The total dollar amount of the contract, if any, and the
10 contract expiration date.

11 (d) The department shall retain information collected pursuant
12 to this section until November 1 following the tax year in which
13 the contract is executed, or if no contract, the tax year in which the
14 aggregate payments first equal or exceed six hundred dollars
15 (\$600).

16 (e) For each failure to fully comply with subdivision (c), unless
17 the failure is due to good cause, the department may assess a
18 penalty of twenty-four dollars (\$24), or four hundred ninety
19 dollars (\$490) if the failure is the result of conspiracy between the
20 service recipient and service provider not to supply the required
21 report or to supply a false or incomplete report.

22 (f) Information obtained by the department pursuant to this
23 section may be released only for purposes of establishing,
24 modifying, or enforcing child support obligations under Section
25 17400 of the Family Code and for child support collection
26 purposes authorized under Article 5 (commencing with Section
27 19271) of Chapter 5 of Part 10.2 of the Revenue and Taxation
28 Code, or to the Franchise Tax Board for tax enforcement purposes
29 or for the administration of this code.

30 ~~(g) This section shall become operative on January 1, 2001.~~

